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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to  
Implement Senate Bill 1376 Requiring  
Transportation Network Companies to  
Provide Access for Persons with  
Disabilities, Including Wheelchair Users  
who need a Wheelchair Accessible Vehicle.

Rulemaking 19-02-012

**AMENDED TRACK 3 SCOPING MEMO  
AND RULING OF ASSIGNED COMMISSIONER**

This Amended Scoping Memo and Ruling amends the previous Scoping Memo and Ruling issued in this proceeding to clarify issues for Track 3 of the proceeding and set forth the Track 3 schedule. Except as expressly set forth in this Amended Scoping Memo and Ruling, the terms of the previously issued Scoping Memo and Ruling remain unchanged.

**1. Background**

On March 4, 2019, the Commission initiated this Order Instituting Rulemaking, which summarized the substantive background of this proceeding. On May 7, 2019, a Scoping Memo and Ruling (May 7, 2019 Scoping Memo) was issued by the assigned Commissioner, which set forth the scope and schedule of the proceeding. On August 15, 2019, an Amended Scoping Memo and Ruling was issued that added issues to Track 2 and modified the Track 2 schedule.

The May 7, 2019 Scoping Memo stated that “Track 3 of this proceeding will consider the final implementation details as required by Senate Bill (SB) 1376.

The schedule for Track 3 will be established in a Scoping Memo issued at a later date, but Track 3 is expected to be concluded in the second quarter of 2020.”

## **2. Scope of Issues for Track 3**

The May 7, 2019 Scoping Memo set forth issues within the scope of Track 3. Decision (D.) 20-03-007, the Track 2 decision, raised additional issues to be addressed in Track 3 or did not address some Track 2 issues, which are therefore carried over into Track 3. Conversely, some issues listed for Track 3 on the May 7, 2019 Scoping Memo have been removed because they were addressed in the Track 2 decision.

We therefore modify the list of issues in scope for Track 3 as follows:

### **1. Transportation Network Company (TNC) Offset Requirements.**

- a. For TNCs demonstrating a full accounting of funds expended, pursuant to Public Utilities (Pub. Util.) Code § 5440.5(a)(1)(B)(II), should qualifying expenses be limited to the “incremental costs” of providing wheelchair accessible vehicle (WAV) service? What method should the Commission use to calculate “incremental costs”?
- b. In addition to the requirements adopted in D.20-03-007, what other measures, if any, should be considered for purposes of demonstrating “improved level of service,” under Pub. Util. Code § 5440.5(a)(1)(B)(II)? For example, should an increase in the number of WAV trips offered or an expansion of the “zone of service” be considered?

### **2. Access Fund Disbursements.**

- a. Should a minimum or maximum amount of funding be disbursed to an access provider in response to an application?
- b. Should the Commission prescribe what purposes moneys disbursed to access providers can be used for, such as maintenance and fuel costs, vehicle purchase

and retrofitting costs, driver training, and time involved in providing wheelchair accessible trips?

- c. Should the Commission directly grant funding to transportation carriers that it does not regulate (*e.g.*, taxicab companies or entities that exclusively provide non-emergency medical transportation)?
- d. Should access providers that receive Access Fund funding be required to be available for chartering through TNC apps?
- e. How should applications from access providers be granted or denied (*e.g.*, via Commission resolution or by staff action)?
- f. How should “on demand transportation” be defined for purposes of selecting on-demand transportation programs or partnerships? What other limitations, if any, should the Commission impose on what entity qualifies as an “access provider”?
- g. In light of TNCs’ allowance to reduce their own remittances to the Access Fund, should TNCs also be allowed to apply as “access providers” to request additional moneys? Under what circumstances should TNCs be allowed to do so? What conditions should they have to satisfy?
- h. Should the Commission establish separate qualifying standards for TNCs according to distinguishing criteria such as the number of trips provided in geographic area (*e.g.*, a million or more rides per quarter) or other criteria?
- i. What additional application requirements should the Commission adopt for access providers, if any? Note that any proposed access provider selection criteria may also be considered as additional criteria for TNC Offset Requests and Exemption Requests.
- j. What is an appropriate method or formula for compensating Access Fund Administrators (AFAs)?

- k. For administration of the Access Fund by the statewide AFA, what qualifying expenses should be established for access providers, if any, that are not otherwise served by a local AFA? How should differences in geographic areas be considered and incorporated into the statewide program available in the absence of a local AFA?
3. Reporting Requirements.
- a. Pursuant to Pub. Util. Code § 5440.5(a)(1)(J), how should yearly benchmarks be established for TNCs and access providers to meet to ensure WAV users receive continuously improved, reliable, and available service? How should the benchmarks be used? In what form should TNCs and access providers submit such reports to the Commission, and should the reports be publicly available?
  - b. Pursuant to Pub. Util. Code § 5440.5(a)(2)(A), what information should be included in the report to the Legislature on compliance with the program and the effectiveness of on-demand transportation programs and partnerships funded by the program?
  - c. What additional reporting requirements, if any, should the Commission adopt for access providers and TNCs?
4. Advice Letter.
- a. General Order 96-B, Rule 7.5.2 provides a 120-day suspension period of an Advice Letter if the Industry Division does not reach a disposition during the initial 30-day review period. For purposes of TNC Offset and Exemption Requests, should the Commission modify this rule and if so, how?
5. Intervenor Compensation. Pub. Util. Code § 5440.5(a)(1)(K) allows for intervenor compensation to parties that successfully advocate in proceeding(s) to implement SB 1376, subject to the requirements of the existing intervenor compensation statute, Pub. Util. Code §§ 1803-1808. The intervenor compensation fund is set at

no more than 2 percent of Pub. Util. Code § 421 fees, which the Commission collects from common carriers and related businesses as a condition of service.

- a. Does the phrase “existing funds collected from TNCs pursuant to [Pub. Util. Code] Section 421” require clarification?
- b. Is Commission action needed on the meaning of “advocates for accessible transportation” or “representatives of a group whose membership uses accessible transportation” for the purpose of distributing intervenor compensation?

6. Additional TNC Accessibility Issues.

- a. What additional issues, if any, should be addressed related to the accessibility needs of persons with disabilities who do not require WAVs, including but not limited to, the needs of persons with hearing and vision impairments, persons who require the assistance of service animals, and/or ambulatory persons with disabilities?
- b. Should changes to TNCs’ online-enabled applications or platforms be required to improve services for persons with disabilities?
- c. Should TNCs be required to accept transportation subsidies in the form of substitutes for legal tender (*i.e.*, voucher or scrip), issued by governmental entities for WAV trips and other trips requested by persons with disabilities?
- d. Should a “Symbol of Access” be used by TNCs or access providers?
- e. Should the Commission add WAV inspection and driving training requirements to the requirements to obtain a TNC permit? What inspection and training requirements should the Commission adopt?

### 3. Schedule

The following schedule is established for Track 3, subject to modification by the assigned Commissioner or assigned Administrative Law Judges (ALJs).

Track 3 Calendar	
Parties and CPED submit proposals on Track 3 issues	May 29, 2020
Workshop on Track 3 proposals held	Mid-June 2020 By Webinar
Comments on the workshop and proposals filed and served	June 25, 2020
Reply Comments on the workshop and proposals filed and served	July 7, 2020
Proposed Decision on Track 3 issued	Q3 2020
Final Decision on Track 3 issued	Q3 2020

The assigned Commissioner or assigned ALJs may modify this schedule as necessary to promote the efficient management and fair resolution of this proceeding. Any workshops in this proceeding shall be noticed on the Commission's Daily Calendar to inform the public that a decision-maker or advisor may be present at those meetings or workshops. Parties shall check the Daily Calendar regularly for such notices.

**IT IS RULED** that the scope of issues and schedule for Track 3 of this proceeding are set forth above. Except as expressly set forth in this Amended Scoping Memo and Ruling, the terms of the previously issued Scoping Memo and Ruling remain unchanged.

Dated April 21, 2020, at San Francisco, California.

/s/ GENEVIEVE SHIROMA

Genevieve Shiroma  
Assigned Commissioner